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06                          UNITED STATES DISTRICT COURT
                          WESTERN DISTRICT OF WASHINGTON
07                                  AT SEATTLE

08   UNITED STATES OF AMERICA,           )   CASE NO.  CR06-425-MJP
                                         )
09         Plaintiff,                    )
                                         )
10         v.                            )   SUMMARY REPORT OF U.S.
                                         )   MAGISTRATE JUDGE AS TO
11   FERNANDO CIENFUEGOS,                )   ALLEGED VIOLATIONS
                                         )   OF SUPERVISED RELEASE
12         Defendant.                    )
     _____ )
13

14         An evidentiary hearing on supervised release revocation in this case was scheduled before

15   me on February 11, 2009.  The United States was represented by AUSA Douglas B. Whalley and

16   the defendant by Kevin Peck.  The proceedings were digitally recorded.

17         Defendant had been sentenced on or about January 25, 2008 by the Honorable Marsha J.

18   Pechman on a charge of Conspiracy to Distribute Heroin, and sentenced to 357 days custody

19   (credit for time served), plus 3 years supervised release. (Dkt. 760.)

20         The conditions of supervised release included the standard conditions plus the requirements

21   that defendant participate in drug testing and treatment, abstain from alcohol, submit to search,

22   and provide his probation officer with access to requested financial information.

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01      On March 17, 2008, defendant's probation officer reported that defendant had violated the

02 conditions of supervised release by using oxycodone, alcohol, heroin and methamphetamine.

03 Defendant was reprimanded, referred for intensive outpatient treatment and professional

04 assessment, and the structured testing program was continued.  No further action was taken at the

05 time. (Dkt. 825.)

06      On August 27, 2008, defendant admitted violating the conditions of supervised release by

07 using oxycodone, alcohol, heroin, methamphetamine, OxyContin, Vicodin, and morphine on a

08 number of occasions. (Dkt. 892.) Defendant was sentenced to time served in custody and released

09 on October 8, 2008, plus 24 months supervised release. (Dkt. 905.)

10      In an application dated January 6, 2009 (Dkt. 930), U.S. Probation Officer Steven R.

11 Gregoryk alleged the following violations of the conditions of supervised release:

12      1.      Committing the crime of Theft 3 on January 3, 2009, in violation of the general

13 condition of supervision which states that the defendant shall not commit another federal, state or

14 local crime.

15      2.      Using heroin on January 3, 2009, in violation of standard condition No. 7.

16      On January 28, 2009, two additional violations were alleged, (Dkt. 934) which were

17 incorporated into the pending revocation proceedings:

18      3.      Possession of heroin, on or about January 28, 2009, in violation of standard

19 condition No. 7.

20      4.      Frequenting a place where controlled substances are illegally sold, used, distributed,

21 or administered, in violation of standard condition No. 8.

22      Defendant was advised in full as to those charges and as to his constitutional rights.

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01        Defendant admitted the alleged violations and waived any evidentiary hearing as to

02  whether they occurred. (Dkt. 943.)

03        I therefore recommend the Court find defendant violated his supervised release as alleged,

04  and that the Court conduct a hearing limited to the issue of disposition.  The next hearing will be

05  set before Judge Pechman.

06        Pending a final determination by the Court, defendant has been detained.

07        DATED this 12th day of February, 2009.

08

09                               Mary Alice Theiler
                                 United States Magistrate Judge

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11  cc:    District Judge:         Honorable Marsha J. Pechman
           AUSA:                Douglas B. Whalley

12          Defendant's attorney:    Kevin Peck
           Probation officer:      Steven R. Gregoryk

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